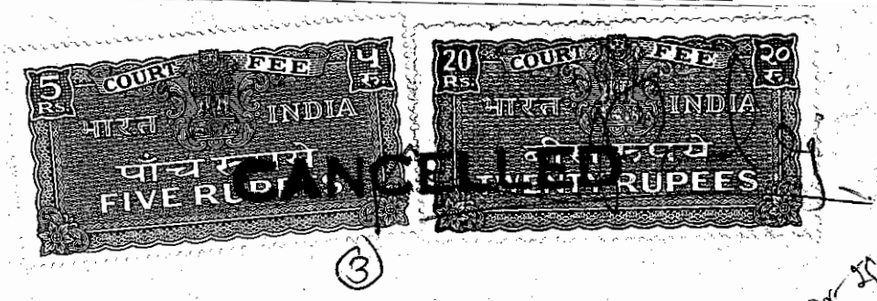

(3)

IN THE HIGH COURT OF MADHYA PRADESH : AT JABALPUR.

WRIT PETITION NO. 1068 /1995.

Naimuddin son of Late Sheikh Habibulla, aged 42 years, Agriculturist, Resident of Village Kharakona, Police Station Batoli Tehsil Lundra District Surguja(MP).

... PETITIONER.

Vs.

1. The State of Madhya Pradesh Through The Secretary, Department of Home, Govt. of M.P., Vallabh Bhavan, Bhopal (MP).
2. The Commissioner, Bilaspur Zone, Bilaspur (MP).
3. The District Magistrate, Surguja Ambikapur (MP).

... RESPONDENTS.

PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA.

XI-HC-22

(60)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ...WP...1068/95... **सन्** **200**

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

14.7.2005

Shri B.D. Guru, counsel for the petitioner.

Shri Sunil Otwani, Panel Lawyer for the State.

Heard both the counsel.

The petitioner has preferred this petition under Article 226 of the Constitution of India questioning the legality, propriety and correctness of order dated 20.10.1994 (Annexure P-5) passed by the District Magistrate, Sarguja and also order dated 25.2.1995 (Annexure P-8) passed by the Commissioner, Bilaspur, whereby the Commissioner dismissed the appeal of the petitioner and affirmed the order passed by the District Magistrate.

Brief facts, as set out in the petition, leading to filing of this petition are that the petitioner, on an application being made under Section 13 of the Indian Arms Act, was granted License No.13/93 to possess 315 Bore Rifle. After the grant of license the petitioner purchased a 315 Bore Rifle bearing No.93-A-B-0832. On 23.9.1994 respondent No.3, on receiving a complaint, issued a show cause notice to the petitioner mentioning therein that a complaint has been received against the petitioner that he is involved in a theft of a vehicle and in that respect charge sheet has been filed by the Allahabad Police. In response to the said notice the petitioner submitted his reply dated 17.10.1994 (Annexure P-3) in which the petitioner has mentioned that his son namely Akbar purchased the jeep bearing registration number MP27-A-2264 from one Shyam Kumar, who was the owner of said jeep, in consideration of Rs.1,20,000/- and the said jeep was registered in the name of his

ये)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(69)

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

hold the licence and therefore, his licence is revoked under Section 17 of the Indian Arms Act, 1959.

The order passed by the District Magistrate is prima-facie perverse, for the reason that in the show cause notice it was mentioned that the petitioner is involved in theft of vehicle, but even the number of vehicle, kind of vehicle, case number & crime number was not mentioned in the show cause notice, whereas, in the reply the petitioner very fairly explained that under some doubt the jeep bearing number MP27-A-2264 of which his son was the owner was seized by Allahabad Police, however, when nothing has been found against said Shyam Kumar, who was the original owner, regarding the theft of said jeep, the police released the vehicle. As such, there was nothing on record which goes to show that the petitioner was involved in any theft of vehicle or misused the licence, which was granted to him. Apart from that some other grounds which were not mentioned in the notice were mentioned by the District Magistrate in the order impugned that he was accused in Crime No.114/76 registered at Police Station Sitapur for commission of offence under Sections 396,597,599,402 of the IPC and Sections 25 & 27 of the Arms Act. However, in that case the petitioner has been acquitted in absence of evidence.

In the first instance, the petitioner was acquitted of that case, therefore, that could not have been made ground for revocation of licence unless some other material was available before the learned Magistrate for revocation of licence. In fact, there was no other material before the Magistrate to form an opinion that the petitioner

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(63)

आदेश पत्रक

मामला क्रमांक WP 1068/95 **सन्** **200**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

in any way misused the licence granted to him or allowing the petitioner to keep the rifle will not be in the interest of administration or public. As such the findings arrived at by learned District Magistrate are perverse and accordingly, the finding of the Commissioner dismissing the appeal for the same reason is also perverse.

A reference has been made about the report of the Superintendent of Police but there is no mention about the same in the order that what kind of report was there, whether the petitioner any time misused the rifle. The ground, which was taken by learned District Magistrate for revoking the licence, was no ground in the eyes of law.

In the result, for the foregoing reason, this petition deserves to be allowed, same is allowed and the order dated 20.10.1994 passed by learned District Magistrate, Sarguja and order dated 25.2.1995 passed by the Commissioner, Bilaspur are hereby quashed.

Certified copy as per rules.

Sd/-
L.C. Bhadoo
Judge

Roshan/-

(पीछे देखिये)